

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

MICHAEL LUTZOW  
5250 Powrie Drive  
Pensacola, FL 32504

Registered Nurse License No. 514288

Respondent

Case No. 2008-33

**DECISION AND ORDER**

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as it's Decision in the above entitled matter.

This Decision shall become effective on April 20, 2008.

IT IS SO ORDERED March 20, 2008.



President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 EDMUND G. BROWN JR., Attorney General  
of the State of California

2 JANICE K. LACHMAN

Supervising Deputy Attorney General

3 KENT D. HARRIS, State Bar No. 144804

Deputy Attorney General

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5 Sacramento, CA 94244-2550

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7 Attorneys for Complainant

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2008-33

12 **MICHAEL JAY LUTZOW,**  
13 **AKA MICHAEL J. LUTZOW**

14 5250 Powrie Drive  
Pensacola, FL 32504

OAH No. 2007090042

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

15 Registered Nurse License No. 514288

16 Respondent.

17  
18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
19 above-entitled proceedings that the following matters are true:

20 PARTIES

21 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) is the Executive Officer of  
22 the Board of Registered Nursing. She brought this action solely in her official capacity and is  
23 represented in this matter by Edmund G. Brown Jr., Attorney General of the State of California,  
24 by Kent D. Harris, Deputy Attorney General.

25  
26 2. Respondent Michael Jay Lutzow (Respondent) is represented in this  
27 proceeding by attorney Edgardo Gonzalez, Esq., whose address is 1300 Clay Street, Suite 600  
28 Oakland, CA 94612.

3. On or about August 14, 1995, the Board of Registered Nursing issued Rwgistered Nurse License No. 514288 to Michael Jay Lutzow (Respondent). Said license was and is in full force and effect at all times relevant herein

## JURISDICTION

4. Accusation No. 2008-33 was filed before the Board of Registered Nursing (Board) , Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on August 3, 2007. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. 2008-33 is attached as exhibit A and incorporated herein by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2008-33. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

## CULPABILITY

8. Respondent admits the truth of each and every charge and allegation in Accusation No. 2008-33.

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9. Respondent agrees that his Registered Nurse License is subject to discipline and he agrees to be bound by the Board of Registered Nursing (Board) 's imposition of discipline as set forth in the Disciplinary Order below.

### RESERVATION

10. The admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the Board of Registered Nursing or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

## CONTINGENCY

11. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and the staff of the Board of Registered Nursing may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or his counsel. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

12. The parties understand and agree that electronic or facsimile copies of this Stipulated Settlement and Disciplinary Order, including electronic or facsimile signatures thereto, shall have the same force and effect as the originals.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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**Severability Clause.** Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

**Criminal Court Orders:** If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

Upon successful completion of probation, Respondent's license shall be fully restored.

1                   3.     **Report in Person.** Respondent, during the period of probation, shall  
2 appear in person at interviews/meetings as directed by the Board or its designated  
3 representatives.

4                   4.     **Residency, Practice, or Licensure Outside of State.** Periods of  
5 residency or practice as a registered nurse outside of California shall not apply toward a reduction  
6 of this probation time period. Respondent's probation is tolled, if and when he resides outside of  
7 California. Respondent must provide written notice to the Board within 15 days of any change of  
8 residency or practice outside the state, and within 30 days prior to re-establishing residency or  
9 returning to practice in this state.

10                   Respondent shall provide a list of all states and territories where he has ever been  
11 licensed as a registered nurse, vocational nurse, or practical nurse. Respondent shall further  
12 provide information regarding the status of each license and any changes in such license status  
13 during the term of probation. Respondent shall inform the Board if he applies for or obtains a  
14 new nursing license during the term of probation.

15                   5.     **Submit Written Reports.** Respondent, during the period of probation,  
16 shall submit or cause to be submitted such written reports/declarations and verification of actions  
17 under penalty of perjury, as required by the Board. These reports/declarations shall contain  
18 statements relative to Respondent's compliance with all the conditions of the Board's Probation  
19 Program. Respondent shall immediately execute all release of information forms as may be  
20 required by the Board or its representatives.

21                   Respondent shall provide a copy of this Decision to the nursing regulatory agency  
22 in every state and territory in which he has a registered nurse license.

23                   6.     **Function as a Registered Nurse.** Respondent, during the period of  
24 probation, shall engage in the practice of registered nursing in California for a minimum of 24  
25 hours per week for 6 consecutive months or as determined by the Board.

26                   For purposes of compliance with the section, "engage in the practice of registered  
27 nursing" may include, when approved by the Board, volunteer work as a registered nurse, or  
28 work in any non-direct patient care position that requires licensure as a registered nurse.

1           The Board may require that advanced practice nurses engage in advanced practice  
2 nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the  
3 Board.

4           If Respondent has not complied with this condition during the probationary term,  
5 and Respondent has presented sufficient documentation of his good faith efforts to comply with  
6 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
7 grant an extension of Respondent's probation period up to one year without further hearing in  
8 order to comply with this condition. During the one year extension, all original conditions of  
9 probation shall apply.

10           **7. Employment Approval and Reporting Requirements.** Respondent  
11 shall obtain prior approval from the Board before commencing or continuing any employment,  
12 paid or voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all  
13 performance evaluations and other employment related reports as a registered nurse upon request  
14 of the Board.

15           Respondent shall provide a copy of this Decision to his employer and immediate  
16 supervisors prior to commencement of any nursing or other health care related employment.

17           In addition to the above, Respondent shall notify the Board in writing within  
18 seventy-two (72) hours after he obtains any nursing or other health care related employment.  
19 Respondent shall notify the Board in writing within seventy-two (72) hours after he is terminated  
20 or separated, regardless of cause, from any nursing, or other health care related employment with  
21 a full explanation of the circumstances surrounding the termination or separation.

22           **8. Supervision.** Respondent shall obtain prior approval from the Board  
23 regarding Respondent's level of supervision and/or collaboration before commencing or  
24 continuing any employment as a registered nurse, or education and training that includes patient  
25 care.

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1 Respondent shall practice only under the direct supervision of a registered nurse  
2 in good standing (no current discipline) with the Board of Registered Nursing, unless alternative  
3 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)  
4 are approved.

5 Respondent's level of supervision and/or collaboration may include, but is not  
6 limited to the following:

7 (a) Maximum - The individual providing supervision and/or collaboration is  
8 present in the patient care area or in any other work setting at all times.

9 (b) Moderate - The individual providing supervision and/or collaboration is in  
10 the patient care unit or in any other work setting at least half the hours Respondent works.

11 (c) Minimum - The individual providing supervision and/or collaboration has  
12 person-to-person communication with Respondent at least twice during each shift worked.

13 (d) Home Health Care - If Respondent is approved to work in the home health  
14 care setting, the individual providing supervision and/or collaboration shall have person-to-  
15 person communication with Respondent as required by the Board each work day. Respondent  
16 shall maintain telephone or other telecommunication contact with the individual providing  
17 supervision and/or collaboration as required by the Board during each work day. The individual  
18 providing supervision and/or collaboration shall conduct, as required by the Board, periodic, on-  
19 site visits to patients' homes visited by Respondent with or without Respondent present.

20 9. **Employment Limitations.** Respondent shall not work for a nurse's  
21 registry, in any private duty position as a registered nurse, a temporary nurse placement agency, a  
22 traveling nurse, or for an in-house nursing pool.

23 Respondent shall not work for a licensed home health agency as a visiting nurse  
24 unless the registered nursing supervision and other protections for home visits have been  
25 approved by the Board. Respondent shall not work in any other registered nursing occupation  
26 where home visits are required.

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1           Respondent shall not work in any health care setting as a supervisor of registered  
2 nurses. The Board may additionally restrict Respondent from supervising licensed vocational  
3 nurses and/or unlicensed assistive personnel on a case-by-case basis.

4           Respondent shall not work as a faculty member in an approved school of nursing  
5 or as an instructor in a Board approved continuing education program.

6           Respondent shall work only on a regularly assigned, identified and predetermined  
7 worksite(s) and shall not work in a float capacity.

8           If Respondent is working or intends to work in excess of 40 hours per week, the  
9 Board may request documentation to determine whether there should be restrictions on the hours  
10 of work.

11           **10. Complete a Nursing Course(s).** Respondent, at his own expense, shall  
12 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later  
13 than six months prior to the end of his probationary term.

14           Respondent shall obtain prior approval from the Board before enrolling in the  
15 course(s). Respondent shall submit to the Board the original transcripts or certificates of  
16 completion for the above required course(s). The Board shall return the original documents to  
17 Respondent after photocopying them for its records.

18           **11. Cost Recovery.** Respondent shall pay to the Board costs associated with  
19 its investigation and enforcement pursuant to Business and Professions Code section 125.3 in the  
20 amount of \$3,500.75. Respondent shall be permitted to pay these costs in a payment plan  
21 approved by the Board, with payments to be completed no later than three months prior to the  
22 end of the probation term.

23           If Respondent has not complied with this condition during the probationary term,  
24 and Respondent has presented sufficient documentation of his good faith efforts to comply with  
25 this condition, and if no other conditions have been violated, the Board, in its discretion, may  
26 grant an extension of Respondent's probation period up to one year without further hearing in  
27 order to comply with this condition. During the one year extension, all original conditions of  
28 probation will apply.

1                   12.     **Violation of Probation.** If Respondent violates the conditions of his  
2 probation, the Board after giving Respondent notice and an opportunity to be heard, may set  
3 aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's  
4 license.

5                   If during the period of probation, an accusation or petition to revoke probation has  
6 been filed against Respondent's license or the Attorney General's Office has been requested to  
7 prepare an accusation or petition to revoke probation against Respondent's license, the  
8 probationary period shall automatically be extended and shall not expire until the accusation or  
9 petition has been acted upon by the Board.

10                  13.     **License Surrender.** During Respondent's term of probation, if he ceases  
11 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of  
12 probation, Respondent may surrender his license to the Board. The Board reserves the right to  
13 evaluate Respondent's request and to exercise its discretion whether to grant the request, or to  
14 take any other action deemed appropriate and reasonable under the circumstances, without  
15 further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent  
16 will no longer be subject to the conditions of probation.

17                  Surrender of Respondent's license shall be considered a disciplinary action and  
18 shall become a part of Respondent's license history with the Board. A registered nurse whose  
19 license has been surrendered may petition the Board for reinstatement no sooner than the  
20 following minimum periods from the effective date of the disciplinary decision:

21                   (1)     Two years for reinstatement of a license that was surrendered for any  
22 reason other than a mental or physical illness; or

23                   (2)     One year for a license surrendered for a mental or physical illness.

24                  14.     **Physical Examination.** Within 45 days of the effective date of this  
25 Decision, Respondent, at his expense, shall have a licensed physician, nurse practitioner, or  
26 physician assistant, who is approved by the Board before the assessment is performed, submit an  
27 assessment of the Respondent's physical condition and capability to perform the duties of a  
28 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board.

1           If medically determined, a recommended treatment program will be instituted and  
2 followed by the Respondent with the physician, nurse practitioner, or physician assistant  
3 providing written reports to the Board on forms provided by the Board.

4           If Respondent is determined to be unable to practice safely as a registered nurse,  
5 the licensed physician, nurse practitioner, or physician assistant making this determination shall  
6 immediately notify the Board and Respondent by telephone, and the Board shall request that the  
7 Attorney General's office prepare an accusation or petition to revoke probation. Respondent  
8 shall immediately cease practice and shall not resume practice until notified by the Board.  
9 During this period of suspension, Respondent shall not engage in any practice for which a license  
10 issued by the Board is required until the Board has notified Respondent that a medical  
11 determination permits Respondent to resume practice. This period of suspension will not apply  
12 to the reduction of this probationary time period.

13           If Respondent fails to have the above assessment submitted to the Board within  
14 the 45-day requirement, Respondent shall immediately cease practice and shall not resume  
15 practice until notified by the Board. This period of suspension will not apply to the reduction of  
16 this probationary time period. The Board may waive or postpone this suspension only if  
17 significant, documented evidence of mitigation is provided. Such evidence must establish good  
18 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be  
19 provided. Only one such waiver or extension may be permitted.

20           **15. Participate in Treatment/Rehabilitation Program for Chemical**  
21 **Dependence.** Respondent, at his expense, shall successfully complete during the probationary  
22 period or shall have successfully completed prior to commencement of probation a Board-  
23 approved treatment/rehabilitation program of at least six months duration. As required, reports  
24 shall be submitted by the program on forms provided by the Board. If Respondent has not  
25 completed a Board-approved treatment/rehabilitation program prior to commencement of  
26 probation, Respondent, within 45 days from the effective date of the decision, shall be enrolled in  
27 a program. If a program is not successfully completed within the first nine months of probation,  
28 the Board shall consider Respondent in violation of probation.

1           Based on Board recommendation, each week Respondent shall be required to  
2 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics  
3 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed  
4 by the Board. If a nurse support group is not available, an additional 12-step meeting or  
5 equivalent shall be added. Respondent shall submit dated and signed documentation confirming  
6 such attendance to the Board during the entire period of probation. Respondent shall continue  
7 with the recovery plan recommended by the treatment/rehabilitation program or a licensed  
8 mental health examiner and/or other ongoing recovery groups.

9           16.     **Abstain from Use of Psychotropic (Mood-Altering) Drugs.** Respondent  
10 shall completely abstain from the possession, injection or consumption by any route of all  
11 controlled substances and all psychotropic (mood altering) drugs, including alcohol, except when  
12 the same are ordered by a health care professional legally authorized to do so as part of  
13 documented medical treatment. Respondent shall have sent to the Board, in writing and within  
14 fourteen (14) days, by the prescribing health professional, a report identifying the medication,  
15 dosage, the date the medication was prescribed, the Respondent's prognosis, the date the  
16 medication will no longer be required, and the effect on the recovery plan, if appropriate.

17           Respondent shall identify for the Board a single physician, nurse practitioner or  
18 physician assistant who shall be aware of Respondent's history of substance abuse and will  
19 coordinate and monitor any prescriptions for Respondent for dangerous drugs, controlled  
20 substances or mood-altering drugs. The coordinating physician, nurse practitioner, or physician  
21 assistant shall report to the Board on a quarterly basis Respondent's compliance with this  
22 condition. If any substances considered addictive have been prescribed, the report shall identify a  
23 program for the time limited use of any such substances.

24           The Board may require the single coordinating physician, nurse practitioner, or  
25 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in  
26 addictive medicine.

27           17.     **Submit to Tests and Samples.** Respondent, at his expense, shall  
28 participate in a random, biological fluid testing or a drug screening program which the Board

1 approves. The length of time and frequency will be subject to approval by the Board.

2 Respondent is responsible for keeping the Board informed of Respondent's current telephone  
3 number at all times. Respondent shall also ensure that messages may be left at the telephone  
4 number when he is not available and ensure that reports are submitted directly by the testing  
5 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately  
6 to the Board by the program and Respondent shall be considered in violation of probation.

7 In addition, Respondent, at any time during the period of probation, shall fully  
8 cooperate with the Board or any of its representatives, and shall, when requested, submit to such  
9 tests and samples as the Board or its representatives may require for the detection of alcohol,  
10 narcotics, hypnotics, dangerous drugs, or other controlled substances.

11 If Respondent has a positive drug screen for any substance not legally authorized  
12 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the  
13 Board files a petition to revoke probation or an accusation, the Board may suspend Respondent  
14 from practice pending the final decision on the petition to revoke probation or the accusation.  
15 This period of suspension will not apply to the reduction of this probationary time period.

16 If Respondent fails to participate in a random, biological fluid testing or drug  
17 screening program within the specified time frame, Respondent shall immediately cease practice  
18 and shall not resume practice until notified by the Board. After taking into account documented  
19 evidence of mitigation, if the Board files a petition to revoke probation or an accusation, the  
20 Board may suspend Respondent from practice pending the final decision on the petition to  
21 revoke probation or the accusation. This period of suspension will not apply to the reduction of  
22 this probationary time period.

23 18. **Mental Health Examination.** Respondent shall, within 45 days of the  
24 effective date of this Decision, have a mental health examination including psychological testing  
25 as appropriate to determine his capability to perform the duties of a registered nurse. The  
26 examination will be performed by a psychiatrist, psychologist or other licensed mental health  
27 practitioner approved by the Board. The examining mental health practitioner will submit a  
28 written report of that assessment and recommendations to the Board. All costs are the

1 responsibility of Respondent. Recommendations for treatment, therapy or counseling made as a  
2 result of the mental health examination will be instituted and followed by Respondent.

3           If Respondent is determined to be unable to practice safely as a registered nurse,  
4 the licensed mental health care practitioner making this determination shall immediately notify  
5 the Board and Respondent by telephone, and the Board shall request that the Attorney General's  
6 office prepare an accusation or petition to revoke probation. Respondent shall immediately cease  
7 practice and may not resume practice until notified by the Board. During this period of  
8 suspension, Respondent shall not engage in any practice for which a license issued by the Board  
9 is required, until the Board has notified Respondent that a mental health determination permits  
10 Respondent to resume practice. This period of suspension will not apply to the reduction of this  
11 probationary time period.

12           If Respondent fails to have the above assessment submitted to the Board within  
13 the 45-day requirement, Respondent shall immediately cease practice and shall not resume  
14 practice until notified by the Board. This period of suspension will not apply to the reduction of  
15 this probationary time period. The Board may waive or postpone this suspension only if  
16 significant, documented evidence of mitigation is provided. Such evidence must establish good  
17 faith efforts by Respondent to obtain the assessment, and a specific date for compliance must be  
18 provided. Only one such waiver or extension may be permitted.

19           **19. Therapy or Counseling Program.** Respondent, at his expense, shall  
20 participate in an on-going counseling program until such time as the Board releases him from this  
21 requirement and only upon the recommendation of the counselor. Written progress reports from  
22 the counselor will be required at various intervals.

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ACCEPTANCE


1 I have carefully read the above Stipulated Settlement and Disciplinary Order and  
2 have fully discussed it with my attorney, Edgardo Gonzalez. I understand the stipulation and  
3 the effect it will have on my Registered Nurse License. I enter into this Stipulated Settlement  
4 and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
5 Decision and Order of the Board of Registered Nursing.  
6

7 DATED: 12/10/07  
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10   
11 MICHAEL JAY LUTZOW (Respondent)  
Respondent

12 I have read and fully discussed with Respondent Michael Jay Lutzow the terms  
13 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary  
14 Order. I approve its form and content.  
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16 DATED: 12-10-07  
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19 EDUARDO GONZALEZ  
Attorney for Respondent  
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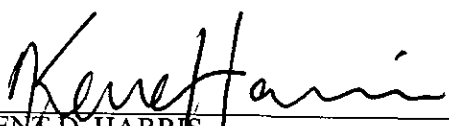
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

DATED: 1/8/08

EDMUND G. BROWN JR., Attorney General  
of the State of California

JANICE K. LACHMAN  
Supervising Deputy Attorney General

  
\_\_\_\_\_  
KENT D. HARRIS  
Deputy Attorney General

Attorneys for Complainant

DOJ Matter ID: SA2007101036  
Lutzow draft stip.wpd



**Exhibit A**  
**Accusation No. 2008-33**

1 EDMUND G. BROWN JR., Attorney General  
of the State of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 KENT D. HARRIS, State Bar No. 144804  
Deputy Attorney General  
4 California Department of Justice  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 445-7376  
Facsimile: (916) 327-8643

7 Attorneys for Complainant  
8

9 **BEFORE THE**  
10 **BOARD OF REGISTERED NURSING**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. *2008-33*

13 **MICHAEL JAY LUTZOW,**  
14 **AKA MICHAEL J. LUTZOW**  
5250 Powrie Drive  
Pensacola, FL 32504

**A C C U S A T I O N**

15 Registered Nurse License No. 514288

16 Respondent.  
17

18 Complainant alleges:

19 **PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation  
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing  
22 ("Board"), Department of Consumer Affairs.

23 2. On or about August 14, 1995, the Board issued Registered Nurse License  
24 Number 514288 to Michael Jay Lutzow, also known as Michael J. Lutzow ("Respondent"). The  
25 registered nurse license will expire on April 30, 2009, unless renewed.

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1                   8.     **DRUG**

2                    “**Methamphetamine**” is a Schedule II controlled substance as designated by  
3 Health and Safety Code section 11055(d)(2).

4                                   **FIRST CAUSE FOR DISCIPLINE**

5                                           (Out-of-State Discipline)

6                   9.     Respondent’s registered nurse license is subject to disciplinary action  
7 under Code section 2761(a)(4) on the grounds of unprofessional conduct in that, on or about  
8 July 20, 2006, pursuant to the Findings of Fact, Order of Denial No. 0511070, in *In the Matter of*  
9 *Application of Application for License by Michael J. Lutzow to Practice Practical Nursing in the*  
10 *State of Arizona* (attached hereto as **Exhibit A**), the Arizona State Board of Nursing denied  
11 Respondent’s professional nurse application for licensure.

12                                   **SECOND CAUSE FOR DISCIPLINE**

13                                           (Self-Administration of a Controlled Substance)

14                   10.    Respondent’s registered nurse license is subject to disciplinary action  
15 under Code section 2761(a), on the grounds of unprofessional conduct, as defined in Code  
16 section 2762(a), in that in or about 1988, and on or about August 22, 2005, Respondent self-  
17 administered methamphetamine.

18                                   **PRAYER**

19                   **WHEREFORE**, Complainant requests that a hearing be held on the matters  
20 herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

21                   1.     Revoking or suspending Registered Nurse License Number 514288, issued  
22 to Michael Jay Lutzow, aka Michael J. Lutzow;

23                   2.     Ordering Michael Jay Lutzow, aka Michael J. Lutzow, to pay the Board of  
24 Registered Nursing the reasonable costs of the investigation and enforcement of this case,  
25 pursuant to Code section 125.3; and,

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3. Taking such other and further action as deemed necessary and proper.

DATED: 7/31/07

Ellen Hochberg for  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

03579110-SA2006101968

Lutzow.Acc.wpd

bc [7-10-2007]

## **EXHIBIT A**

**Janet Napolitano**  
Governor



**Joey Ridenour**  
Executive Director

***Arizona State Board of Nursing***

4747 North 7<sup>th</sup> Street, Suite 200  
Phoenix AZ 85014-3653  
Phone (602) 889-5150 Fax (602) 889-5155  
E-Mail: [arizona@azbn.org](mailto:arizona@azbn.org)  
Home Page: <http://www.azbn.org>

**TO:** California Board of Nursing  
400 R St. # 4030  
Sacramento, CA 95814

**DATE:** September 6, 2006

**FROM:** Joey Ridenour, RN, MN, Executive Director  
Arizona State Board of Nursing

**SUBJECT:** MICHAEL JAY LUTZOW, CA RN # 514288  
Disciplinary Action by Arizona State Board of Nursing

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This is to advise you that the above named nurse was disciplined by the Arizona State Board of Nursing effective September 5, 2006. The disciplinary action given was see attached.

Enclosure

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**Janet Napolitano**  
Governor



**Joey Ridenour**  
Executive Director

*Arizona State Board of Nursing*

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**AFFIDAVIT OF CUSTODIAN OF RECORDS**

STATE OF ARIZONA

COUNTY OF MARICOPA

I, Joey Ridenour, Executive Director for the Arizona State Board of Nursing, County of Maricopa, State of Arizona, do hereby certify that I am the officer having the legal custody for the records hereto attached in the office of the Arizona State Board of Nursing, County of Maricopa, State of Arizona, a public office of said State. The attached copies are true copies of the records on **MICHAEL JAY LUTZOW**. Personnel of the Arizona State Board of Nursing prepared the records during the ordinary course of business.

Witness my hand and the seal of the Arizona State Board of Nursing at 4747 N. 7th Street, Suite 200, Phoenix, Arizona 85020 on September 6, 2006.

SEAL

*Joey Ridenour R.N.*

Joey Ridenour, R.N., M.N.  
Executive Director

CALIFORNIA  
BOARD OF REGISTERED NURSING

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**BEFORE THE ARIZONA STATE BOARD OF NURSING**

IN THE MATTER OF APPLICATION )  
FOR LICENSE BY: )  
MICHAEL J. LUTZOW )  
TO PRACTICE PRACTICAL )  
NURSING IN THE STATE OF ARIZONA )  
\_\_\_\_\_ )

**ORDER OF DENIAL  
NO.  
0511070**

On July 20, 2006, the Arizona State Board of Nursing ("Board") considered the application for licensure of Michael J. Lutzow ("Applicant").

**FINDINGS OF FACT**

1. On or about November 17, 2005, Applicant submitted a professional nurse application for licensure by endorsement to the Board and answered "Yes" to Question #4: "Have you ever been convicted, entered a plea of guilty, nolo contendere or no contest, or have you ever been sentenced, served time in jail or prison, or had prosecution deferred or sentence deferred or probation deferred in any felony or undesignated offense?" Applicant disclosed that on May 25, 1989, he was convicted of committing a lewd and lascivious act with a child, a felony, in San Diego County, California. Applicant provided partial court and police records, and submitted a written statement.

2. On or about August 23, 1982, according to Fox Lake Illinois, Police Department report number 82-07333, Applicant admitted to entering a boat with another person and they took two water skis. Applicant was booked on two counts of burglary.

3. On or about March 1, 1989, according to San Diego County Sheriff's Office report number 89-18785, Applicant, age 28, was arrested for five counts of child molesting. According to the report, the victim, age 13, told police that she sneaked out of her

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house on January 13, 1989, and met Applicant and others at around midnight or 1:00 AM. She said she and Applicant went into the bathroom area, kissed, and performed oral sex on each other. The victim told the officer Applicant used his hands and fingers to rub her private area, and she rubbed him. The victim said that Applicant started to put his penis in her vagina. The victim got scared and told him to stop, and he did. The victim told the officer Applicant had offered her beer. On March 1, 1989, Applicant denied having sex with the victim. Applicant told police that he had been arrested for burglary in Illinois in the past, and had problems while he was in the military with drugs. When Applicant was in a police car, he said, "I knew the little bitch would get me in trouble."

4. On or about March 27, 1989, in case number CR 102733, an Information was filed charging Applicant with six counts of committing a lewd act upon a child under the age of 14, felonies, in the San Diego County Superior Court in San Diego County, California. The Information charges that on or about January 13, 1989, Applicant committed the six lewd and lascivious acts upon a child under the age of 14, to wit: penile/vaginal contact, Defendant orally copulates Victim, Victim orally copulates Defendant, digital/vaginal contact, fondling of breasts, and Victim touches Defendant's penis.

5. On or about May 25, 1989, in case number CR 102733, Applicant signed a "Plea of Guilty/No Contest – Felony" form, in which he pleads guilty, and states in part, "...evidence proffered [sic] indicates I fondled breasts of a female, less than 14 years of age, allegations I am not denying..." and, "I am pleading Guilty because in truth and in fact I AM GUILTY."

6. On or about May 25, 1989, in case number CR 102733, Applicant was convicted, pursuant to a plea agreement, of one count committing a lewd act upon a child under

14, to wit: fondling of breasts, a felony. The Court ordered Applicant to serve three years of probation, 199 days of jail time, cooperate with Probation Officer in any plan for treatment, pay fines, and register as a sex offender.

7. On or about December 21, 2005, Board Staff mailed Applicant a Court and Conviction Questionnaire with a request to provide a written explanation and relevant court and police documents regarding each of his arrests, citations or charges by January 4, 2006. Applicant failed to provide the requested information.

8. On or about January 19, 2006, Applicant told Board Staff that he would provide a complete copy of the police report and would write a more detailed written explanation of his March 1, 1989, arrest. As of May 5, 2006, the Board had received no response from Applicant.

9. On or about May 5, 2006, Board Staff mailed Applicant a second Court and Conviction Questionnaire with a request to provide a written explanation and relevant court and police documents regarding each of his arrests, citations or charges.

10. On or about May 17, 2006, the Board received Applicant's response to the Questionnaire. Applicant provided additional documentation related to case number CR102733. Regarding his employment for the past five years, Applicant disclosed only Maxim Healthcare and indicated he was employed there from 1998 to 2000. Applicant failed to disclose his August 23, 1982, arrest for burglary in Fox Lake, Illinois. Applicant failed to disclose his employment with Nursefinders in Oakland California, in 2004 and 2005.

11. On or about June 15, 2006, Applicant told Board Staff that he used methamphetamines and tested positive in a random drug screen when he was in the Marines in approximately 1988, and as a result, was demoted to the lowest rank.

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12. From on or about December 30, 2004, to February 23, 2005, Applicant was employed as a registered nurse with Nursefinders in Oakland, California. On his November 29, 2004, Employment Application Supplemental Questions, Applicant answered, "Yes" to the question, "Have you ever been convicted of a felony?" Applicant's explanation was, "1989 Wrongly accused of interaction with a minor." On or about February 4, 2005, Applicant's work performance was rated in the area of professionalism as, "Needs Improvement" in a performance evaluation. Comments from the supervisor included, "Respiratory Therapy approached me near end of shift to report that patient's vent setting had been changed by this RN without an order to do so," and "His patient's PEG came out (pulled by patient). He got an order from the doctor to reinsert it. As far as I know there is no policy to cover RN's for placing PEGs." The supervisor indicated Applicant was not qualified to return to the unit and requested Applicant not be sent again.

13. On or about February 9, 2005, while Applicant was employed by Nursefinders, a performance evaluation rated Applicant's performance needed improvement in the areas in clinical skills and knowledge and professionalism. Comments indicate, "report scattered Amiodarone protocol not followed Heparin protocol not followed, helps when asked but very hyper and scattered," "very hyper and loud," and "ICU is a calm environment with extremely sick patients. It is difficult to work with someone that is hyper and scattered." The supervisor indicated Applicant was not qualified to return to the unit and requested Applicant not be sent again.

14. On or about February 23, 2005, Applicant was discharged from employment with Nursefinders due to receipt of too many "Do Not Return" from different

facilities. Applicant is not eligible to be rehired because, "Clinical and professional skills not up to standards. Too many client complaints."

### **CONCLUSIONS OF LAW**

In light of the above Findings of Fact, the Board has cause to deny the application for licensure of Michael J. Lutzow pursuant to A.R.S. § 32-1663(A) and (B), as defined in ARS § 32-1601 (16)(b), (d) and (h).

### **ORDER**

NOW THEREFORE, IT IS ORDERED that the application of Michael J. Lutzow for a license to practice as a practical nurse in the State of Arizona is denied.

IT IS FURTHER ORDERED that Applicant is not eligible to re-apply for said license pursuant to A.A.C. R4-19-404, for at minimum of five years.

IT IS FURTHER ORDERED that Applicant shall immediately cease and desist the practice of nursing in the State of Arizona and is not eligible to practice nursing in Arizona under the privilege of any Compact state without prior approval from the Arizona Board of Nursing.

PURSUANT TO A.R.S. § 41-1092.03, any person aggrieved by this Order may apply to the Board, in writing, within thirty days of receipt and request a public hearing with respect to this Order. If you request a public hearing with respect to this order, you also have the right to request an informal settlement conference by filing a written request with the Board, pursuant to A.R.S. § 41-1092.06, no later than 20 days before the scheduled hearing. The conference will be held within 15 days after receipt of your request. Please note that you waive any right to object to the participation of the Board's representative in the final administrative

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decision of the matter if it is not settled at the conference. For answers to questions regarding the appeals process, contact Susan Barber, at (602) 889-5161.

DATED this 20<sup>th</sup> day of July, 2006.

ARIZONA STATE BOARD OF NURSING

SEAL



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Joey Ridenour, R.N., M.N.  
Executive Director

JR/KO:eg

COPY mailed this 31<sup>st</sup> day of July, 2006, by Certified Mail No. 7005 1820 0007 1873 7394 and First Class Mail to:

Michael J. Lutzow  
509 Keats Drive  
Vallejo, CA 94591

By: Esther Garcia